

SEP 04 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN RAMON MALDONADO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-72413

Agency Nos. A95-877-310  
A95-877-311

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted August 26, 2008\*\*

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Juan Ramon Maldonado and Sanjuana Almaguer, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. The BIA also

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

construed the motion as a motion to reconsider, and held that the motion was untimely. The BIA held that there was no need to consider petitioners' request for sua sponte reopening because petitioners were by then statutorily ineligible for cancellation due to their failure to depart the United States within the voluntary departure period.

Petitioners have waived any challenge to the BIA's order denying their motion to reopen or reconsider by failing to raise any arguments related to the BIA's dispositive determination that the motion was untimely, *see Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996); or failing to allege that they were otherwise eligible for reopening when they failed to voluntarily depart, *see Barroso v. Gonzales*, 429 F.3d 1195, 1202 (9th Cir. 2005) ("Where an alien files his motion [to reopen] after his voluntary departure period has expired, the law in this circuit is clear that the BIA may properly deny the motion on that basis.")

**PETITION FOR REVIEW DENIED.**